In the High Court of Uttaranchal at Nainital

Chapter VIII, Rule 32(2) (b)
Description of case

Writ Petition No. 738/2004 (M/B)

Sathani Hanumanthu & another …… Petitioners.

Vs.

Director, Indian Institute of Technology,
Roorkee, District Haridwar & others ….Respondents.

AND

Writ Petition No. 766/2004 (M/B)

Nunavath Dasarath .. Petitioner.

Vs.

Director, Indian Institute of Technology,
Roorkee, District Haridwar & others …Respondents

Date of decision: 29-9-2004

For the approval of:

Hon'ble Mr. Justice V.S. Sirpurkar, C.J.

Hon'ble Mr. Justice Irshad Hussain, J

- Whether the order/judgment should be Sent to the reporters for reporting? (yes)

- Whether the reporter be allowed to See the judgment? (Yes)

ISB

In the High Court of Uttaranchal at Nainital

W.P. No. 738/2004 (M/B)

1- Sathani Hanumanthu

2- Ms. Meghna Neema .. Petitioners.

Vs.

Director, Indian Institution of Technology,
Roorkee, District Haridwar & others ….Respondents.

AND

Writ Petition NO. 766 /2004 (M/B)

Nanuvath Dasarath .. Petitioner.

Vs.

Director, Indian Institute of Technology,
Roorkee, District Haridwar & others …Respondents.

Sri Manoj Tiwari, learned counsel for the petitioners.
Sri S. Dhulia, Senior Advocate, learned counsel for the respondents.

Coram : Hon'ble Mr. Justice V. S. Sirpurkar, C.J.
Hon'ble Mr. Justice Irshad Hussain, J.

Dated: 29th September, 2004.

P.C: (Hon'ble Mr. Justice Irshad Hussain, J.):

The petitioners in these petitions have, in seeking writ in the nature of mandamus commanding the respondents to grant admission to them in M. Tech. Courses in the current academic session, impugned para 7.2(e) of the Information Brochure for admission to Post Graduate Programme in I.I.T., Roorkee.

2- The short facts which are not disputed are that these petitioners got admission in M.Tech. Course in I.I.T., Roorkee in academic sessions 2003-2004 and pursued their studies. At the end of first Semester they secured less than 5.5 Semester Grade Point Average (S.G.P.A.) and were therefore not permitted to continue the studies in their courses. The petitioners then applied for admission in M.Tech. Courses in the academic session 2004-2005 and were short listed provisionally for admission. However they were finally refused admission on the ground that they were disqualified for admission in M.Tech. Courses in view of the bar created by para 7.2(e) of the Information Brochure for admission to Post Graduate Programme.

The said para provides that a student admitted and registered for a Post Graduate Programme in I.I.T. and who leaves after completing the said Course, or discontinued his studies, shall not be admitted to a programme at the same level.

3- Petitioners sought to assail the decision of the respondents mainly on the grounds that the said para of the Information Brochure does not create a bar for admission as the petitioners neither left the Institute after completing the P.G. Course nor discontinued their studies as their admissions in the last academic session were terminated for not securing required 5.5 S.G.P.A. marks; that the petitioners were offered admission in other Institutes as well but in view of the offer of admission by the respondents they did not appear for counseling in other Institutes and now it is too late to get admission elsewhere and that the petitioners having been called for third Campus Counseling by the respondents and in which they participated on 29-7-2004 they could not have been refused admission on the basis of the mischief rule of said para of the Information Brochure.

4- The respondents contested the claim, inter alia, on the grounds that the petitioners have secured less than the minimum required S.G.P.A. in the last academic session and therefore under the relevant Ordinances they had to discontinue their studies in M.Tech Programme and having done so they are, in view of the above mandatory provision of the para 7.2(e) of the Information Brochure, not eligible to be admitted to a programme at the same level, i.e. M.Tech, Course; that when a candidate seeks admission in I.I.T. he/she fills up his/her admission form and he/she per Point No.28 of the admission form makes a declaration and promise to abide by the Statutes, Ordinances and Regulations of I.I.T., Roorkee; that in view of such declaration and promise made by the petitioners in their admission forms they are to be governed accordingly and in the teeth of the provision of Para 7.2(e) of the Information Brochure they can nor urge that they have a vested right of admission in M.Tech. Courses in the current academic session on account of their being invited for counseling and offer of provisional admission and that the decision to refuse admission to them has rightly been taken according

to the Statutes, Ordinances and Regulations of the I.I.T., Roorkee, at the time of final registration.

5- Learned counsel for the petitioners urged that para 7.2(e) of the Information Brochure for admission does not create a bar for admission in the current academic session as the petitioners have not voluntarily discontinued their studies in the last academic session and that at any rate the petitioners having been invited for third counseling and offered admission they could not have been denied admission particularly when the petitioners were offered admission in other Institutes also and they preferred to get themselves admitted in I.I.T., Roorkee. Learned counsel placed reliance on a decision of the Apex Court in Ashok Chand Singhvi vs. University of Jodhpur and others; A.I.R. 1989 Supreme Court 823 . On the other hand learned Senior Advocate Sri Dhulia appearing on behalf of the respondents argued that the word 'discontinued' in the para impugned must be given its proper meaning so as to serve the purpose for which it is used and on being given the purposeful interpretation it clearly appear that the candidate who had to discontinue his studies in the M.Tech Programme as he had secured less than the minimum required S.G.P.A. as provided under the statutes of the Institute to maintain its high standard and excellence is also ineligible for admission in same course in the next academic session. He also submitted that the offer for admission to the petitioners was provisional and since they have declared in their admission forms to abide by the Statutes, Ordinances and Regulations of the I.I.T., Roorkee, they can not have any grievance to denial of admission on account of their in-eligibility detected after checking the academic records at the time of final registration.

6- At the out set it is desirable to reproduce para 7.2(e) of the Information Brochure for the admission and its reads as under:-

> "A student who is admitted and registered for a Post Graduate Programme at the Institute but leaves after completing or discontinue his studies, shall not be admitted to a programme at the same level. For example, a student who has been admitted to any M. Sc. Programme will not be eligible for admission to

any M.Sc. Programme. However, he/she is eligible for admission to M. Phil/M.Tech. Programmes, etc."

7- It is also relevant to reproduce point no. 28 of the admission form which contain a declaration to be made by the candidate. It runs as below:-

" I hereby declare that all the particulars stated by me in this Application Form are true to the best of my knowledge and belief. I have read the information brochure of IIT Roorkee and I shall abide by the terms and conditions therein. It is entirely my responsibility, to prove my eligibility for admission to the Programmes for which I am admitted and also, in respects of qualification and entitlement for admission against reserved category, if claimed, to the satisfaction of the Institute. Further, in the even of suppression or distortion of any fact like category, educational qualifications, nationality, etc., made in my Application Form, I understand that my admission, if granted or degree/ diploma acquired subsequently, is liable for cancellation. I also understand that the decision of IIT Roorkee, regarding my admission, will be final and I shall abide by the Ordinances and Regulations of IIT Roorkee, in vogue from time to time. I have read Section 8.9 of the Information Brochure regarding the institution's approach toward ragging and the punishments to which I am liable if found guilty of ragging. Further, if admitted, I promise to abide by the statutes, ordinances and regulations of the IIT Roorkee."

8- There can be no doubt the Indian Institutes of Technology including the one at Roorkee are Institutes of national importance and are devoted to excellence in the files of Science and Technology and these Institutes set the highese standard for its students and therefore the Statutes in I.I.T. are rigorous and its method of evaluation is scientific and modern. There can also be no dispute that the terms and conditions for admission to courses in I.I.T. are binding and have to be adhered to. The petitioners have been denied admission in the current academic session in view of the bar created by the provision as contained in para 7.2(e) of the Information Brochure for admission.

The question, therefore, is what is the intent, purpose and true spirit of the said para providing for disqualification for admission.

9- A bare reading of para 7.2(e) make it obvious that the object of it is to get rid of the unsuitable candidates or students from the roll of I.I.T. in a particular course so that the high academic standard does not get diluted. The rule/guideline contained in the Information Brochure, like a statute must be interpreted having regard to the text and context thereof. Therefore, looking to the context that candidates who are unable to secure the required 5.5 S.G.P.A. at the First Semester have to discontinue the studies in their Post Graduate Courses in order to maintain the high standard and excellence, the text of the above provision leave no manner of doubt that the bar to seek re-admission in the same Post Graduate Programme will be available not only against the candidates who voluntarily discontinue their studies but also against the candidates who can not be permitted to continue the studies on account of their not securing required 5.5 S.G.P.A. at the end of the First Semester. The mischief under the provision can not be avoided on the basis that the candidates were not permitted to continue the studies in their courses and therefore there was no element of voluntariness on their part in doing so. In other words the word 'discontinued' used in the above para 7.2(e) can not be permitted to be interpreted with reference to involuntary or voluntary act of a candidate seeking less than 5.5. S.G.P.A. at the end of First Semester. When there is a requirement to secure at least 5.5 S.G.P.A. at the end of First Semester and the failure to attain this standard entail discontinuance of the course, the question of voluntary or involuntary act for it on the part of the candidates has absolutely no relevance. We therefore, find ourselves wholly unable to accept the contention of the learned counsel for the petitioners that the word 'discontinued' need to be given the meaning that only those candidates will be ineligible for admission in the same Post Graduate Course who have voluntarily discontinued their studies for not securing required S.G.P.A. at the end of the First Semester.

10- In regard to the submission that the petitioners were offered admission in the current academic session 2004-2005 and were invited in the third counseling also it need to be stated that it is the

definite stand of the respondents that at the time of the final registration the academic records were thoroughly checked and on detection of the above ineligibility for admission in the same Post Graduate Course the petitioners were denied admission. Therefore, even if at the time of the counseling the authorities were made aware of the fact that the petitioners in the last academic session discontinued their studies on account of not securing required S.G.P.A., it make little difference because the decision is taken at the time of final registration after checking the academic records and thus decision taken to refuse the admission can not legally be challenged in the teeth of the above provision in the Information Brochure. Learned Senior Advocate appearing for the respondent also rightly referred to point no. 28 of the admission form which pertain to a declaration by the candidate as reproduced in the earlier part of the judgment and on account of it the petitioners being governed by the Statutes, Ordinances and Regulations of the I.I.T. can not have any grievance against denial of admission on the strength of their having been invited for counseling.

11- In the face of the facts of the case the ratio of the decision in Ashok Chand Singhvi (supra) relied upon by the learned counsel for the petitioners also does not help the cause of the petitioners. The facts of the reported case were that the appellant, a diploma holder serving in an Engineering College as an Administrator/Instructor submitted application for study leave for three years to enable him to prosecute his studies in B.E. Degree Course. Pursuant to the recommendation of the Dean, Faculty of Engineering the appellant was issued order for admission and in view thereof he deposited the requisite fees and joined the classes from January 16, 1988. The appellant was, however, communicated on February 9, 1988 with an order dated January 20, 1988 of the Dean directing that the appellant's admission was put in abeyance until further orders. The reason being that the appellant appear to have not secured required 60% marks in his diploma examination and further that the appellant had been admitted after last date for admission. The appellant being aggrieved by the said order dated January 20, 1988 filed writ petition in the High Court which dismissed the petition. Special leave petition

preferred by the appellant was admitted and ultimately the appeal was allowed on findings that the appellant had secured more than 60% marks in the aggregate in the diploma examination and was not disqualified for admission and further that assuming that the appellant was admitted through mistake beyond the last date for admission, the appellant was not being at fault, it is difficult to sustain the order withholding the admission of the appellant. The Hon'ble Judges of the Court relied upon an earlier decision of the Apex Court in the matter of Rajendra Prasad Mathur Vs. Karnataka University (A.I.R. 1986 S.C. 1448). In that case the appellants were admitted to certain private Engineering College for B.E. Degree Course, although they were not eligible for admission. In that case the Apex Court dismissed the appeals preferred by the students whose admissions subsequently were cancelled and the order of cancellation was up-held by the High Court. At the same time the Court took the view that the fault lay with the Engineering Colleges which admitted the appellants and that there was no reason why the appellants should suffer for the sins of the management of those Engineering Colleges. Accordingly the Court allowed the appellants to continue their studies in the respective Engineering Colleges in which they were granted admission. The same principle which weighed with the Court in that case was applied in the case before the Court on the premise that the appellant was not at fault and he should not suffer for the mistake committed by the Vice Chancellor and the Dean of the Faculty of Engineering. It is thus obvious that the facts of the reported case were at variance in as much as the appellant had already got the admission and was pursing his studies in the Engineering Course and the mistake in permitting the admission was detected later on. In the instant case at the time of the final registration for admission on checking the ineligibility of the petitioners for admission had been detected and they have been refused admission for the reason stated above and therefore the reported decision has no application to their case and they can not be permitted to assert that they are entitled to admission in the current academic session in the same Post Graduate Course which they have discontinued on account of their having been called for counseling and on account of offer of provisional admission. In the fact of the

facts of the case the claim of the petitioners for compensation on account of alleged harassment can also not be sustained.

12- For the reasons aforesaid the writ petitions are devoid of merit and are therefore liable to be dismissed. Both the writ petitions are hereby dismissed. No order as to costs.

(Irshad Hussain, J.) **(V.S. Sirpurkar, C. J.)**

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